

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:21-CV-00170-GCM *SEALED*

EQUITY INVESTMENT ASSOCIATES, LLC,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent,)

**EQUITY INVESTMENT ASSOCIATES, LLC’S OPPOSITION TO
UNITED STATES’ MOTION TO UNSEAL**

PETITIONER, Equity Investment Associates, LLC (“Equity”), OPPOSES the United States’ Motion to Unseal as it remains premature pending the Fourth Circuit’s ruling on the merits. Contemporaneously with this filing, Equity is filing a Notice of Appeal with respect to this Court’s Order entered August 16, 2021. In the interest of judicial economy, the Court should (i) hold its ruling on Respondent’s motion in abeyance pending the outcome of Equity’s appeal, and, (ii) if the Fourth Circuit orders additional proceedings that could result in the disclosure of grand jury materials, deny Respondent’s motion.

Equity petitioned this Court to quash a third-party summons that the Internal Revenue Service issued to Truist Bank (“Summons”). (ECF Doc. 2). Equity also moved this Court to seal the Petition and subsequent filings pursuant to Fed. R. Crim. P. 6(e)(6) and Local Rules 6.1(b)–(c). (ECF Doc. 1). In an Order entered April 27, 2021, this Court recognized that this proceeding may require the disclosure of materials relating to grand jury proceedings and granted Equity’s Motion to Seal. (ECF Doc. 8). Respondent never objected to the Court’s Order sealing the case until it filed the instant motion.

The potential for disclosure remains. Petitioner filed the Motion to Seal out of an abundance of caution, since it recognized that an evidentiary hearing or discovery in this matter could require disclosure of grand jury materials that Fed. R. Crim. P. 6(e)(6) would otherwise protect. Respondent also acknowledged this possibility in filings in this case, as he raised Fed. R. Crim. P. 6(e) as a defense to a potential evidentiary hearing. *See* United States' Opp'n Mot. Evid. Hearing and Discovery (ECF Doc. 24), at 4. Until the Fourth Circuit rules on Equity's appeal, the potential for disclosure remains.

Contrary to Respondent's assertions, this proceeding is not complete. Contemporaneously with filing this Opposition, Equity is filing a Notice of Appeal with respect to this Court's Order entered August 16, 2021. Equity believes that an evidentiary hearing and limited discovery remains necessary to resolve this matter. If the Fourth Circuit finds in Equity's favor on this issue, additional proceedings before this Court will likely require disclosure of information relating to ongoing grand jury proceedings that Fed. R. Crim. P. 6(e)(6) requires to be kept under seal. Thus, the grounds to keep this docket under seal remain the same as when the Court originally granted Equity's Motion to Seal.

WHEREFORE, Petitioner respectfully request that the Court hold its ruling on Respondent's Motion to Unseal in abeyance pending the outcome of Equity's appeal. If the Fourth Circuit rules in Equity's favor and this Court orders an evidentiary hearing or limited discovery, the Court should deny Respondent's Motion.

Dated: September 8, 2021

Respectfully submitted,

s/HALE E. SHEPPARD

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